

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:)	
)	COMPLAINT NO. 2001-24
THE NATIONAL STEEL AND)	FOR
SHIPBUILDING COMPANY)	ADMINISTRATIVE CIVIL LIABILITY
NONCOMPLIANCE WITH ORDER)	
<u>NO. 97-36</u>)	JANUARY 30, 2001

**THE NATIONAL STEEL AND SHIPBUILDING COMPANY (NASSCO) IS HEREBY
GIVEN NOTICE THAT:**

1. NASSCO is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (SDRWQCB) may impose civil liability pursuant to the *Porter-Cologne Water Quality Control Act, California Water Code (CWC)*, § 13385 et seq.
2. A public hearing on this matter before the SDRWQCB has been scheduled at the SDRWQCB meeting on 21 February 2001 at the *Metropolitan Wastewater Department, Auditorium, 9192 Topaz Way, San Diego, California*. The meeting will begin at 9:00 a.m. At the hearing, NASSCO will have the opportunity to be heard and to contest the allegations in this *Complaint* and the imposition of civil liability by the SDRWQCB. Additional notice of this public hearing and the hearing procedures will be provided to the NASSCO prior to the hearing date with the agenda for the SDRWQCB meeting on that date.
3. At the hearing, the SDRWQCB will determine the validity of the allegations contained herein and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by this *Complaint*, or in some other amount.
4. According to NASSCO's *1999-2000 Annual Stormwater Monitoring Report*, on February 12, 2000, NASSCO collected samples of storm water runoff from 21 discharge points at its facility to San Diego Bay.

ALLEGATION

5. NASSCO violated *Order No. 97-36, Discharge Specification B.8.* for toxicity for 21 storm water samples taken on

February 12, 2000. Of the 21 storm water samples, 6 discharges had a 0% survival response, 14 discharges had 50% or less survival response, 17 discharges had 75% or less survival response, and all 21 discharges had 85% or less survival response.

BACKGROUND

6. The storm water sampling and analyses were conducted pursuant to Order No. 97-36 and Monitoring and Reporting Program No. 97-36. The toxicity limit in Order No. 97-36, Discharge Specification B.8. states the following:

Effective July 1, 1999, in a 96-hour static or continuous flow bioassay (toxicity) test, undiluted stormwater runoff associated with industrial activity which is discharged to San Diego Bay shall not produce less than 90 percent survival, 50 percent of the time, and not less than 70 percent survival 10 percent of the time, using a standard test species and protocol approved by the Executive Officer. Until July 1, 1999, this level of acute toxicity shall be a performance goal. [EBEP]

7. The copper concentrations from the respective samples of storm water discharges during the wet weather season 1999-2000 are of significant concern. The storm water copper concentrations ranged from 0.029 mg/l to 1.800 mg/l and the average for the respective storms were 0.342 mg/l and 0.306 mg/l.
8. The zinc concentrations from the respective samples of storm water discharges during the wet weather season 1999-2000 are of significant concern. The storm water zinc concentrations ranged from 0.273 mg/l to 8.920 mg/l and the average for the respective storms were 1.602 mg/l and 0.621 mg/l.

PROPOSED CIVIL LIABILITY

9. Based on consideration of the factors listed in the CWC, civil liability should be imposed on NASSCO by the SDRWQCB in the amount of one hundred seventy-four thousand eight hundred one dollars (\$174,801) for the violation described in paragraph 5.

WAIVER OF HEARING

10. NASSCO may waive its right to a hearing. Waiver of the hearing constitutes admission of the validity of the allegation of violations in this *Complaint* and acceptance of assessment of civil liability in the amount of \$174,801 as set forth in paragraph 9. If NASSCO wishes to waive the hearing, an authorized agent must check, sign, and return the waiver form attached to this Complaint, together with a cashier's check for the amount of the civil liability proposed in paragraph 9. The cashier's check must be made payable to the State Water Resources Control Board and mailed to the California Regional Water Quality Control Board, San Diego Region, 9771 Clairemont Mesa Boulevard, Suite A, San Diego, California, 92124. If a hearing is held, comments from NASSCO and interested parties may be considered by the SDRWQCB in determining the amount of civil liability to assess. Following the hearing, the SDRWQCB may impose an amount of civil liability other than that proposed in this *Complaint* or revoke the *Complaint* and refer the matter to the Attorney General for judicial assessment of civil liability (with higher maximum liabilities for each violation). Please direct questions about this matter to me at (858) 467-2952.

Dated this 30th day of January 2001

By: _____
John H. Robertus
Executive Officer

WAIVER OF THE RIGHT TO A HEARING

[] By checking the box and attaching a cashier's check for the full amount of the civil liability proposed in *Complaint No. 2001-24, National Steel and Shipbuilding Company* waives the right to a hearing before the SDRWQCB with regard to the violations alleged in *Complaint No. 2001-24*. Waiver of the hearing constitutes admission of the validity of the allegation of violations in this complaint and acceptance of assessment of civil liability in the amount of \$174,801 as set forth in *Complaint No. 2001-24*.

The cashier's check must be made payable to the California State Water Resources Control Board, and mailed to the California Regional Water Quality Control Board, San Diego Region, 9771 Clairemont Mesa Blvd., Suite A, San Diego, California 92124-1324. *National Steel and Shipbuilding Company* understands that they are giving up the right to argue against the allegations made by the *Executive Officer* in this *Complaint*, and against imposition of, and the amount of, the civil liability imposed.

Signature

Printed Name

Title/Position

Date